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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,115

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Renaud Dore

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EXAMINER

MILLER, BRANDON J

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,115	Applicant(s) DORE ET AL.	
	Examiner BRANDON J. MILLER	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4 and 5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4 and 5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Response to Amendment

Disposition of Claims

- I. Claims 1-2 and 4-5 are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1,148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

II. Claims 1 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandolfo (US 7,184,767 B2) in view of Pham et al. (US 6,891,820 B1).

Regarding claim 1 Gandolfo teaches a method of creation of a new communication network by a wireless terminal, including, for the wireless terminal, initiating a procedure for creating a new network, coexisting with an existing network, including a declaration of the wireless terminal as access point of the new network, where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network, the new network using a frequency different from the frequency used by the existing network (see col. 9, lines 23-33, controller-capable device reads on wireless terminal). When controller-enabled device creates new network it then becomes a controller with functionality for controlling the network and this reads on declaration of wireless terminal as access point of new network (see col. 9, lines 13-19 and Fig. 5).

However, Gandolfo does not specifically teach the wireless terminal initially being part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network; and disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network.

Pham teaches wireless terminal initially being part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network (see col. 4, lines 25-31, D1 reads on wireless terminal). Pham teaches disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network (see col. 5, lines 32-35, D1' reads on the wireless terminal).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the method in Gandolfo adapt to include the wireless terminal initially being part of an existing centralized network that includes an access point able to control the association of wireless terminals to the existing centralized network; and disassociation of the wireless terminal, initiated by the wireless terminal, from the existing centralized network because Gandolfo discloses that the controller-capable device is also capable of joining an existing network (see Gandolfo, col. 9, lines 23-28) and having the capability to disassociate from the existing network, as taught in Pham, would allow the controller-capable device to create a new network as taught above.

Regarding claim 4 Gandolfo teaches a wireless terminal including an interface with a communication medium, a microprocessor and a memory, which wireless terminal additionally includes in its memory a code to perform functions (see col. 1, lines 19-24 and col. 9, lines 3-10). Gandolfo teaches initiating a procedure for creating a new network including a declaration of the wireless terminal as access point of the new network, where the operating parameters of the new network are such that communications on the new network do not interfere with the existing network, the new network using a frequency different from the frequency used by the existing network (see col. 9, lines 23-33, controller-capable device reads on wireless terminal). When controller-enabled device creates new network it then becomes a controller device with functionality for controlling the network and this reads on declaration of wireless terminal as access point of new network (see col. 9, lines 13-19 and Fig. 5).

However, Gandolfo does not specifically teach disassociation of the wireless terminal, initiated by the wireless terminal, from a network.

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Pham teaches disassociation of the wireless terminal, initiated by the wireless terminal, from a network (see col. 5, lines 32-35, D1' reads on the wireless terminal).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the method in Gandolfo adapt to disassociation of the wireless terminal, initiated by the wireless terminal, from a network because Gandolfo discloses that the controller-capable device is also capable of joining an existing network (see Gandolfo, col. 9, lines 23-28) and having the capability to disassociate from the existing network, as taught in Pham, would allow the controller-capable device to create a new network as taught above.

III. Claims 2 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gandolfo (US 7,184,767 B2) in view of Pham et al. (US 6,891,820 B1) and Norman et al. (US 7,082,535 B1).

Regarding claim 2 Gandolfo and Pham teach a device as recited in claim 1 except for initiating disassociation in at least one of the following cases: frequency change rejection by the access point of the existing network following a request for frequency change from the wireless terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the wireless terminal. Norman teaches initiating disassociation upon a connection establishment rejection by the access point of the network following a request for connection establishment from the wireless terminal (see col. 4, lines 3-9 & 17-20). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the Gandolfo and Pham combination adapt to include initiating disassociation in at least one of the following cases: frequency change rejection by the access

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point of the existing network following a request for frequency change from the wireless terminal; or connection establishment rejection by the access point of the existing network following a request for connection establishment from the wireless terminal because disassociating from a network due to a failure to connect, as taught in Norman, is a common and well known procedure in the art and both the device in Gandolfo and Pham are capable of dissociation.

Regarding claim 5 Gandolfo, Pham, and Norman teach a device as recited in claim 2 and is rejected given the same reasoning as above.

Response to Arguments

IV. Applicant's arguments with respect to claims 1-2 and 4-5 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

V. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRANDON J. MILLER whose telephone number is (571)272-7869. The examiner can normally be reached on Mon.-Fri. 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/
Supervisory Patent Examiner, Art Unit 2617

/Brandon J Miller/
Examiner, Art Unit 2617

January 25, 2010